REMARKS

Claims 1-10 are pending in this application. By this Amendment Applicant seeks to cancel claim 10 and to amend claims 3, 7 and 9 to correct the omission of spaces between words (these changes are purely formal in nature and do not alter the scope of the claims or raise any new issues for consideration). Upon entry of this Amendment, claims 1-9 will be pending, and claims 1 and 5 will remain independent.

The Rejection Under
35 U.S.C. § 101

Claim 10 has been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Solely in the interests of expediting prosecution, and without conceding the position taken by the Office Action, Applicant has cancelled claim 10, rendering this rejection moot.

Accordingly, favorable reconsideration and withdrawal of this rejection are respectfully requested.

The Rejection Under
35 U.S.C. § 103(a)

Claims 1, 5, 9 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over International patent publn. no. WO 02/49343 to Leaning, et al. in view of U.S. patent. no. 5,222,219 to Stumpf. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Claim 1 describes a server having access to at least one set of files (S_i) generated by slicing an encoded multimedia content in at least one set of slicing positions ($\{T_{.i,1}, \ldots, T_{i,K}\}$) forming slices that can be decoded independently one from the other, and by enclosing each slice in a file ($F_{i,j}$) thereby generating at least one set of files. The server includes means for receiving an initial request directed to a multimedia content from a client device, means for sending a document to the client device upon reception of the initial request, the document causing the client device to repetitively send a fetching request designating the multimedia content, means for selecting at least one file amongst the set(s) of files, upon reception of the fetching requests from the client device, and means for

downloading the selected file(s) to the client device. The fetching request does not identify a specific file to be sent from the server to the client device.

Claim 5 is drawn to a method for downloading an encoded multimedia content to a client device. This method includes the steps of encoding a multimedia content, slicing the encoded multimedia content in at least one set of slicing positions forming at least one set of slices that can be decoded independently one from the other, enclosing each slice in a file thereby generating at least one set of files, receiving an initial request from the client device, the initial request being directed to the multimedia content, and sending a document to the client device upon reception of the initial request, the document causing the client device to repetitively send a fetching request designating the multimedia content. The fetching request does not identify a specific file to be sent from the server to the client device. The method also involves selecting at least one file amongst the set(s) of files, upon reception of the fetching requests from the client device, and downloading the selected file(s) to the client device.

Thus, it should be noted that both claims 1 and 5 are directed to the transfer of multimedia content.

Leaning involves the delivery of recorded audio or visual material from a server to a client device (abstract).

Stumpf is directed to the transfer of data over a computer system bus in a pipeline computer system (col. 1, lines 8-9 and 57-64). There is no discussion of multimedia data, and a person having ordinary skill in the art would recognize that Stumpf only relates to the transfer of data via a bus within a computer, not between a server and client. Stumpf does not address the transfer of multimedia data.

Applicant respectfully traverses the combination of Leaning and Stumpf on grounds (1) Stumpf, as noted above, is not from the same field as Leaning and is not analogous art which could be combined with Leaning, and (2) the Office Action does not articulate a persuasive reason for the combination of Leaning and Stumpf.

Stumpf is not analogous art in view of M.P.E.P. § 2141.01(a)(I), which states:

> I. TO RELY ON A REFERENCE UNDER 35 U.S.C. 103, IT MUST BE ANALOGOUS PRIOR ART

> The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. **>"Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed. " KSR International Co. v. Teleflex Inc., 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). Thus a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole.<

As noted above, the claimed invention involves the transfer of sliced multimedia data from a server to a client, whereas Stumpf concerns the sequencing of data flow in a computer's internal bus. A person having ordinary skill in the art would not consider the internal structure of a computer involving the bus and operating components to present structures in a server-client relationship. Also, the transfer of multimedia data as claimed involves timing concerns which are entirely different from the timing concerns which arise with data transfer over an internal bus as in Stumpf; in multimedia data transfer from a server to a client, it is desirable to minimize delays in the transfer of data, whereas in data transfer over an internal bus, it is desirable to delay data transfer in order to insure synchronous operation of the computer's components.

Given these competing and inconsistent concerns, it is respectfully submitted that one having ordinary skill in the art would not consider Stumpf to be analogous art, and so would not look to Stumpf.

Moreover, even if Stumpf were to be deemed analogous art, it is respectfully submitted that the Office Action has not justified the combination of Leaning and Stumpf. The Office Action contends that "it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Leaning with the receipt of ACK signals from the client device just indicating the success or failure of data transfer as taught by Leaning **so as to simplify the content of the message and reduce the work for the client device**" (Office Action, pg. 5) (emphasis added).

The Office Action's justification is respectfully traversed - Stumpf's technique would not simplify Leaning's multimedia message content - all Stumpf teaches is controlling data flow. In fact, if by following Stumpf's teachings Leaning's message content were to be simplified as the Office Action contends, that simplification would **degrade** Leaning's

multimedia data, which those having ordinary skill in the art of multimedia data transfer will recognize is an **undesirable** thing, and that person of ordinary skill would be led away from the asserted combination. So the Office Action's characterization of Stumpf's teachings actually refutes the combination of the two references, and is further evidence of the patentability of this invention.

For all the foregoing reasons, the asserted combination of Leaning and Stumpf is not well-taken, and so the rejection of claims 1 and 5 cannot stand.

The remaining rejected claims, claims 9 and 10, all ultimately depend from and so incorporate by reference all the features of claim 1, including those features just shown to patentably distinguish over Leaning and Stumpf. These claims are therefore allowable at least by virtue of their dependencies.

For all the foregoing reasons, favorable consideration and withdrawal of this rejection are respectfully requested.

Claims 2-4 and 6-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Leaning in view of Stumpf, and further in view of U.S. patent appln. publn. no. 2003/0236564 to Lai. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Claims 2-4 and 6-8 depend from claims 1 and 5, respectively, and so incorporate by reference all the features of claims 1 and 5, including those features just shown to patentably distinguish over Leaning. and Stumpf.

Lai only is cited as teaching recording record identifier information and aspects of the invention as set forth in claims 2-4 and 6-8; the Office Action does not contend that Lai remedies any of the deficiencies of Leaning and Stumpf.

Accordingly, claims 2-4 and 6-8 patentably distinguish over the combination of Leaning, Stumpf and Lai at least for the same reasons that claims 1 and 5 patentably distinguish over Leaning and Stumpf. Favorable reconsideration and withdrawal of this rejection are therefore respectfully requested.

CONCLUSION

Applicant respectfully submits that all outstanding rejections have been addressed and are now either moot or are overcome. Applicant further submits that all claims

pending in this application are patentable over the prior art. Accordingly, favorable consideration and prompt allowance of this application are respectfully requested.

No fees are believed to be due in connection with the filing of this paper. If, however, the Commissioner deems any additional fee(s) to be now or hereafter due in connection with this application, authority is given to charge all such fees to Deposit Account No. 50-4019.

In the event that there are any questions, or should additional information be required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

Date: **July 16, 2010** By: */David L. Schaeffer/*

David L. Schaeffer
Reg. No. 32,716
347-443-1592

Correspondence Address:
Intellectual Property & Licensing
NXP B.V.
1109 McKay Drive; M/S-41SJ
San Jose, CA 95131 USA

CUSTOMER NO. **65913**